No. 92-267

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

OCTOBER TERM, 1992

UJB FINANCIAL CORP., et al.,

Petitioners,

v.

IRWIN SHAPIRO, ROBERT BASSMAN, JEROME KATZ, NORMAN SALSITZ, JEAN LEE and CHAPPAQUA FAMILY TRUST,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE BRIEF *AMICUS CURIAE* OF DEAN WITTER REYNOLDS, INC., MORGAN STANLEY & CO. INCORPORATED, PAINEWEBBER INCORPORATED, WERTHEIM SCHRODER & CO. INCORPORATED AND THE SECURITIES INDUSTRY ASSOCIATION, IN SUPPORT OF PETITIONERS

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Amici Dean Witter Reynolds, Inc., Morgan Stanley & Co. Incorporated, PaineWebber Incorporated, Wertheim Schroder & Co. Incorporated and the Securities Industry Association submit this reply in support of their motion to file a brief *amicus curiae*.

Respondents make two assertions in opposition to the motion. First, they maintain that "[t]he motion disregards the rules of this Court . . ." Second, they maintain that the brief is redundant. They are mistaken on both counts.

1. Rule 37 does not, as respondents would have it, prohibit motions for leave to file briefs *amicus curiae* where, as here, one of the parties withholds consent. If it did, parties fearing the impact on their prospects of the views of *amici*, like respondents here, would hold an absolute veto over the ability of the Court to benefit from the expression of those views. Persons seeking to present their views as *amici* quite plainly have the right to file such motions. Indeed, a leading commentator has indicated that *amici* "should not be deterred by the warning" that motions for leave to file briefs *amicus curiae* are disfavored absent consent, noting that the Court in fact is quite receptive to such motions. R. STERN, E. GRESSMAN & S. SHAPIRO, SUPREME COURT PRACTICE 395 (6th ed. 1986).

The interest of *amici* in this case is plain, and their motion has been filed well in advance of the Court's consideration of the case. In consequence, the suggestion that *amici* disregarded the rules of the Court is meritless.

2. Respondents' contention that the proposed brief of *amici* merely repeats what has been said by petitioners is equally misguided. *Amici* have addressed the issues raised by this case from the standpoint of underwriters of securities and participants in securities class action litigation. They have sought to

demonstrate that reversal of the decision below is of special importance to the proper functioning of the capital markets. These points were not developed by the petitioners.

Dated: September 2, 1992

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